

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

IMHOTEP JORDAN, JR.,

No. C 11-06314 SBA (PR)

Plaintiff,

**ORDER DIRECTING PLAINTIFF TO
SHOW CONTINUED INTENT TO
PROSECUTE THIS ACTION**

v.

JUDGE SAUNDRA B. ARMSTRONG,

Defendant.

Plaintiff commenced the instant pro se action under 42 U.S.C. § 1983 by filing a document on December 14, 2011 entitled, "Instrument of Certification of Judicial Breach of Contractual Oath of Office By: Unclean Hands, Fraudulent Concealment, Fraud, Misapplication of State and Federal Law, Corruption, Misprison [sic], Malfeasance of Office, Interference, Denial, Abrogation, Infringement Upon Judgment Creditors God Vested Sovereign Sentient Rights and Freedoms Under Color of Law. Demand for Certified Response." (Pl.'s Dec. 14, 2011 Filing at 1 (emphasis in original).) Also on December 14, 2011, the Clerk sent Plaintiff a notice directing him to pay the filing fee or to file a completed in forma pauperis application. The Clerk sent Plaintiff a second notice directing him to file a completed civil rights complaint form. Finally, the Clerk sent Plaintiff a copy of his aforementioned December 14, 2011 filing.

Pursuant to Federal Rule of Civil Procedure 41(b), a district court may sua sponte dismiss an action for failure to prosecute or to comply with a court order. See Link v. Wabash R.R., 370 U.S. 626, 633 (1962); McKeever v. Block, 932 F.2d 795, 797 (9th Cir. 1991). But such a dismissal

¹ The Court notes that the aforementioned document filed in the instant case lists the undersigned judge as a defendant. Though not entirely clear, Plaintiff appears to express disagreement with the undersigned judge's handing of his "Request for Entry of Default Judgment," which was filed in Case No. C 11-2668 SBA (PR). (Pl.'s Dec. 14, 2011 Filing at 1.) If Plaintiff intends to bring an action against the undersigned judge pursuant to 42 U.S.C. §1983, the Court reminds him that federal judges are absolutely immune from these claims. See Moore v. Brewster, 96 F.3d 1240, 1243 (9th Cir. 1996); Mullis v. U.S. Bankruptcy Court, 828 F.2d 1385, 1394 (9th Cir. 1987) (applying judicial immunity to actions under Bivens), cert. denied, 486 U.S. 1040 (1988). This is because if a federal judge violates a litigant's constitutional rights in a proceeding pending in federal court, Congress has provided carefully structured procedures for taking appeals and for petitioning for extraordinary writs in Title 28 of the United States Code. See id.


1 should only be ordered when the failure to comply is unreasonable. See id. A district court should
2 afford the litigant prior notice of its intention to dismiss. See Malone v. United States Postal Serv.,
3 833 F.2d 128, 133 (9th Cir. 1987).

4 In the instant case, Plaintiff has failed to communicate with the Court since he filed this
5 action. On January 3, 2012 and again on January 6, 2012, mail sent to Plaintiff was returned as
6 undeliverable with the notation: "Returned to Sender -- Refused," as well as additional handwritten
7 notations: "Inmate Refused Mail on 12-29-11," and "Inmate Refused on 1-3-12," respectively.

8 Accordingly, it is in the interests of justice and judicial efficiency for the Court to establish
9 whether Plaintiff intends to continue to prosecute this action. Plaintiff shall file a notice of his
10 continued intent to prosecute no later than **thirty (30) days** of the date of this Order. Failure to do so
11 will result in the dismissal of this action without prejudice for failure to prosecute under Rule 41(b) of
12 the Federal Rules of Civil Procedure. See Malone, 833 F.2d at 133 (the district court should afford
13 the litigant prior notice before dismissing for failure to prosecute).

14 IT IS SO ORDERED.

15 DATED: 1/19/12


16 SAUNDRA BROWN ARMSTRONG
17 United States District Judge
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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 IMHOTEP JORDAN JR,

5 Plaintiff,

6 v.

7 SAUNDRA B ARMSTRONG et al,

8 Defendant.
9 _____/

Case Number: CV11-06314 SBA

CERTIFICATE OF SERVICE

10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
11 Court, Northern District of California.

12 That on January 23, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said
13 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
14 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
15 in the Clerk's office.

16 Imhotep Jordan C-71742
17 Calipatria State Prison
18 P.O. Box 5002
19 Calipatria, CA 92233

20 Dated: January 23, 2012

21 Richard W. Wieking, Clerk
22 By: LISA R CLARK, Deputy Clerk
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